4136.

SUPREME COURT OF THE UNITED STATES.

No. 131.

JOHN H. HOWARD AND JOSEPHUS ECKOLS, PLAINTIFFS IN ERROR,

vs.

STEPHEN M. INGERSOLL.

IN ERROR TO THE CIRCUIT COURT, U. S., FOR THE DISTRICT OF GEORGIA.

INDEX.

	Original.	Print.
Writ of error	1	1
Power of attorney to execute bond	3	1
Bond to prosecute writ of error	6	2
Bill of exceptions	8	3
Citation and service	11	5
Proceedings in superior court	13	5
Order removing cause to circuit court, U. S.	16	8
Proceedings in circuit court	17	9
Defendant's pleas	17	9
Replications of plaintiffs	21	10
Verdict of jury	23	12
Judgment	24	12
Certificates of clerk and judge	25	13

GIDEON & Co., Print.

Writ of error.

UNITED STATES OF AMERICA.

The President of the United States of America, to the judges of the sixth circuit court of the United States, for the southern district of Georgia, greeting:

Because in the record and proceedings, as also in the rendition of a judgment in a plea, which is in the said circuit court, before you, between John H. Howard and Josephus Echols, plaintiffs, and Stephen M. Ingersoll, defendant, a manifest error hath happened, to the great damage of the said John H. Howard and Josephus Echols, as by their complaint appears; and it being fit that the error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, you are hereby commanded, if judgment be given therein, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the first Monday of December next, in the said Supreme Court to be then and there held; that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein, to correct that error, what of right and according to the law and custom of the United States should be done.

Witness the honorable Roger B. Taney, chief justice of the said Supreme Court of the United States, this fifth day of July, in the year of our Lord one thousand eight hundred and fifty, and of the independence of the United States of America the seventy-fourth.

Power of attorney.

STATE OF GEORGIA, *Muscogee county.*

Know all men by these presents, that whereas, in a case lately tried in the sixth circuit court of the United States, for the southern district of Georgia, being an action of trespass in which John H. Howard and Josephus Echols are plaintiffs, and Stephen M. Ingersoll is defendant, verdict and judgment was rendered at Savannah, at the April term last past of said court; and whereas the said John H. Howard and Josephus Echols have prayed a bill of exceptions, and are about to sue out a writ of error in said case to the Supreme Court of the United States, and a bond to prosecute the said writ of error being required: Now, know ye, that we, the said John H. Howard and Josephus Echols, plaintiffs in the above case; and Charles J. Williams and Alexander H. Cooper, who have agreed to become sureties in said bond, and all of us being of the county and State aforesaid, have nominated, constituted, and appointed, and by these presents do nominate, constitute, and appoint, William Law, of the city of Savannah, in the county of Chatham,

and State aforesaid, our true and lawful attorney and the lawful attorney of each of us, for us and in our names, and the name of each one of us, and as our act and deed, to make, execute, and deliver, in such form and for such penalty as the law requires, the bond required by law to be given to prosecute the said writ of error, and to subscribe each of our names to the said bond; and also to do and perform all and every act and acts, thing and things, necessary to be done in and about the giving the said bond, as fully, to all intents and purposes, as we and each of us might or could do if personally present.

In witness whereof we have hereunto set our, and each of our, hands and seals, this the third day of June, in the year of our Lord one thousand eight hundred and fifty.

JOSEPHUS ECHOLS, [SEAL.]
JOHN H. HOWARD, [SEAL.]
ALEXANDER H. COOPER, [SEAL.]
CHARLES J. WILLIAMS. [SEAL.]

Signed, sealed, and delivered, in presence of—
WILEY WILLIAMS,
Commissioner for the said the sixth circuit court of the United States for the southern dist. of Georgia.

GEORGIA, *Muscogee county.*

I, Wiley Williams, do hereby certify, that Alexander H. Cooper and Charles J. Williams, whose names are signed to the foregoing power of attorney, are each worth greatly more than five hundred dollars, and are responsible securities in a bond for that amount.

In witness whereof I hereunto subscribe my official signature and style of office, at Columbus, Georgia, this third day of June, in the year eighteen hundred and fifty. WILEY WILLIAMS,
Commissioner for the sixth circuit court of the United States for the southern dist. of Georgia.

Bond.

SOUTHERN DISTRICT OF GEORGIA.

Know all men by these presents, that we, John H. Howard, and Josephus Echols, and Charles J. Williams, and Alexander H. Cooper, all of the county of Muscogee, in the State of Georgia, are held and firmly bound unto Stephen M. Ingersoll in the full and just sum of five hundred dollars, current money, to be paid to the said Stephen M. Ingersoll, his certain attorney, representatives, and assigns; to which payment, well and truly to be made and done, we bind ourselves, and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated this fifth day of July, in the year of our Lord one thousand eight hundred and fifty.

Whereas lately, at a circuit court of the southern district of Georgia, sitting for said district, in a suit pending in said court, wherein John H. Howard and Josephus Echols were plaintiffs, and the said Stephen

M. Ingersoll was defendant, judgment was rendered for the plaintiffs, and they, the said John H. Howard and Josephus Echols, have applied to the honorable John C. Nicoll, esquire, for a writ of error to remove the record and proceedings in said case, and a citation directed to the said Stephen M. Ingersoll, citing him to be and appear at a Supreme Court of the United States, to be holden at Washington on the first Monday of December next.

Now the condition of the above obligation is such, that if the said John H. Howard and Josephus Echols shall prosecute their writ to effect, and answer all damages and costs if they fail to make their plea good, then the above obligation to be void, otherwise to be and remain in full force and virtue.

JOAN H. HOWARD, [SEAL.]
By WM. LAW, his attorney,
JOSEPHUS ECHOLS, [SEAL.]
By WM. LAW, his attorney,
CHARLES J. WILLIAMS, [SEAL.]
By his attorney, WM. LAW,
ALEXANDER H. COOPER, [SEAL.]
By his attorney, WM. LAW.

Signed, sealed, and delivered in the presence of—
GEO. GLEN, *Clerk U. S. circuit [court], Ga.*

Approved. JNO. C. NICOLL,
District judge for the dist. of Ga.

Bill of exceptions.

6th circuit court, United States, for the southern district of Georgia.

JOHN H. HOWARD and Josephus Echols
vs.
STEPHEN M. INGERSOLL.
} Trespass.

Verdict and judgment.

On the trial of this cause the plaintiffs proved by the articles of cession, dated on the 16th day of June, 1802, between the United States and Georgia, that the boundary line between Georgia and the territory, now State of Alabama, was a line beginning on the western bank of the Chattahoochie river, and running along the western bank thereof. And did further prove, by competent testimony of witnesses, both for the plaintiffs and on the part of the defendant, that at the part of the said river Chattahoochie where the closes in the said declaration mentioned are situated, the said river (not being a tide-water, and not being navigable) is considerably reduced at its lowest state, especially in droughts, being quite narrow at such state, particularly in some places where it is confined by rocks projecting from the opposite sides of the river, and in other places spreading out more at large. That between the water in this state of the river, and a high and perpendicular bluff on the western or Alabama side, the distance varies, according to one

witness, from 30 to 100 yards; according to another, the bluff banks are high and precipitous; at some places they are 30 feet, at others 100, and again 150 feet from the main channel; by another, at the foot of the bluff bank is a flat space from 50 to 150 feet wide, between ordinary water mark and the bluff bank; from very low water mark to the bluff bank is more than 50 to 150 feet. According to another witness it is from 100 to 120 feet from the bluff bank to medium water mark, and from 80 to 100 feet from medium water mark to low water mark; that this intermediate space is a flat or bottom land, gradually descending from the base of the bluff to the water; that in places upon this flat there is a growth of shrubbery, and some trees, such as pines, gums, oaks, willows, alders, poplars, &c.; that the growth on this flat would be liable to be destroyed if the flat were long or often overflowed; that there is a road or cart-way underneath this bluff, a grist mill, one post of which stands in the water, (the water approaching very near the bluff at that point,) and there being just room between the mill and the bluff for the above road to pass. There is also a saw mill, (but not on the closes in the declaration mentioned,) and a cotton gin factory under the bluff on this flat; and a small portion of it has at times been cultivated. That in the ordinary winter state of the river the water covers this flat about half way to the bluff, to the base of a bank or ridge of sand and gravel, having an inclination of about forty-five degrees; that in very full state of the river, that is, in freshets, the water covers the flats, reaching to or nearly to the bluff, and in the freshet of 1840, known as the Harrison freshet, it extended twelve (12) feet up the base of the bluff; that the extent to which this flat is covered with water varies with the height of the freshets in said river, it being all dry land at the lowest state of the river, and a portion of it being always, except in high freshets, uncovered with water; that it is only in full state of the river that the water overflows the sand bank or ridge before mentioned.

Whereupon the plaintiffs prayed the court to instruct the jury that the true interpretation of the said article of cession in the year 1802, between the United States and Georgia, requires the boundary line between the State of Georgia and the territory, now State, of Alabama, to be drawn on and along the western bank of the Chattahochie river. And that wherever the jury may find that bank to be, the jurisdiction and limits of the State of Alabama must terminate, and cannot pass beyond that line to the eastward of the same, but that all east of said line, whether it be land or water, is included within the limits and jurisdiction of Georgia, and no grant from the United States or the State of Alabama can confer title to any part of the same, either directly or indirectly, either by virtue of the said grant, or as an incident to the same.

Which instruction the said court refused to give, except subject to this modification, to wit, that the articles of cession was an instrument, the interpretation of which belonged to the court and not to the jury, and gave the said instruction subject to the said modification; and more-

over instructed the jury that, by the true construction of those articles of cession, the boundary line between the State of Georgia and Alabama was to be drawn on and along the western bank of the Chattahoochie river at low water mark, *at low water mark*, when the river was at its lowest state.

To which refusal and instruction the plaintiffs except, and pray this bill of exceptions to be signed, sealed, and enrolled, which is done this fifth day of July, 1850.

JNO. C. NICOLL, [L. S.]
District judge for the district of Georgia.

THE UNITED STATES OF AMERICA,
Southern district of Georgia, to wit:

JOHN H. HOWARD and Josephus Echols, plaintiffs in error,
vs.
STEPHEN M. INGERSOLL, defendant in error.
} Writ of error.

To Stephen M. Ingersoll, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, on the first Monday in December next, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States, for the southern district of Georgia; wherein John H. Howard and Josephus Echols are plaintiffs in error, and you are defendant in error, to shew cause, if any there be, why judgment rendered in the said case should not be corrected, and why speedy justice should not be done to the parties in this behalf.

Witness the honorable John C. Nicoll, one of the justices of the said sixth circuit court of the United States, for the southern district of Georgia, this fifth day of July, eighteen hundred and fifty.

JOHN C. NICOLL,
District judge for the dist. of Georgia.

Citation.

Original filed 5th July, 1850.

G. GLEN, *Clerk.*

Original.

Service acknowledged of this citation this 5th July, 1850.

ROBERT M. CHARLTON,
Defendant's atto.

GEORGIA, *Muscogee county.*

To the honorable the superior court of said county.

The petition of John H. Howard and Josephus Echols respectfully

sheweth: That Stephen M. Ingersoll of said county has injured and damaged your petitioners in the sum of ten thousand dollars; for that the said defendant on the first day of March, in the year eighteen hundred and forty-two, and on divers other days between that day and the twentieth day of April, in the year eighteen hundred and forty-five, with force and arms, entered the several closes (covered with water) of your petitioner, situate, lying, and being in the city of Columbus, in said county, and being land covered with water, and being between the main channel of the Chattahoochie river and the western bank of said river, each of said closes being seventy-two feet wide north and south, and extending east and west from said channel to said western bank; each of said closes being also a part of one of the lots of land in the city aforesaid known and distinguished as water lots; the said several of said lots, of parts of which said several closes are formed, being known and distinguished as water lots numbers two, four, six, eight, ten, twelve, fourteen, and sixteen; and then and there fished in the said several closes for fish, and the fish, to wit, shad, trout, succors, perch, catfish, and other fish of your petitioners of great value, to wit, of the value of five thousand dollars, then and there found, and being caught, took, and carried away, and converted and disposed thereof to his own use.

And also for that the said defendant, on the day and year first aforesaid, and on divers other days and times between the day and the day and year secondly aforesaid, with force and arms, broke and entered the several other closes of your petitioners, (covered with water) and being fisheries lying and being in the river Chattahoochie aforesaid, and between the main channel of said river and the western bank thereof; said several closes and fisheries being parts of lots of land known and distinguished in said city as water lots numbers two, four, six, eight, ten, twelve, fourteen, and sixteen, and then and there fished in the said several closes and fisheries for fish, and the fish, *and the fish*, to wit, shad, trout, succors, perch, catfish, and other fish of your petitioners being then and there found, of great value, to wit, of the value of five thousand dollars, caught and took, and carried away, and converted and disposed thereof to his own use, to the damage of your petitioners ten thousand dollars.

Wherefore they bring suit, and pray that process may issue requiring the said defendant, personally or by attorney, to be and appear at the next superior court to be held in and for said county, then and there to answer your petitioners in an action of trespass vi et armis.

JOSEPHUS ECHOLS,
Plaintiffs' attorney.

GEORGIA, *Muscogee county.*

To the sheriff of said county, greeting:

JOHN H. HOWARD and Josephus Echols,
vs.
STEPHEN M. INGERSOLL.

The defendant is hereby required, personally or by attorney, to be and appear at the next superior court to be held in and for said county, on second Monday in May next, then and there to answer the plaintiffs' demand in an action of trespass vi et armis, as in default thereof the court will proceed as to justice shall appertain.

Witness the honorable Robert B. Alexander, judge of said court, this 16th day of April, 1847.

THAD. STURGIS, *Clerk.*

Served the defendant personally with a copy of this writ and process, April 27th, 1847.

JOHN QUIN,
Deputy sheriff.

THE STATE OF GEORGIA,
Muscogee county.

To the honorable the superior court of said county:

The petition of Stephen M. Ingersoll respectfully shews: That John H. Howard and Josephus Echols, heretofore, to wit, on the sixteenth day of April, eighteen hundred and forty-seven, instituted their suit at law against your petitioner to the superior court in and for said county, to be holden for said county on the second Monday in May in the year aforesaid; and your petitioner further shews, that the matter in dispute exceeds the value of five hundred dollars, exclusive of costs, and that at the commencement of said suit, from thence until the filing of said petition, your petitioner was, and still is, a citizen of the State of Alabama, and that said Howard & Echols, the plaintiffs, were, and still are, citizens of the State of Georgia.

Wherefore your petitioner prays that said cause be removed for trial into the next circuit court of the United States, to be held in and for the State of Georgia. And your petitioners will ever pray, &c.

JOHNSON & WILLIAMS,
Attorneys for the petitioner.

THE STATE OF GEORGIA,
Muscogee county.

Know all men by these presents, that we, Stephen M. Ingersoll and are held and firmly bound unto John H. Howard and Josephus Echols in the sum of ten thousand dollars, for the payment of which, we bind ourselves, jointly and severally.

Sealed with our seals, and dated this tenth day of June, A. D. 1847.

The condition of this is, that whereas the said Ingersoll has obtained an order on his petition to have transferred and removed from the superior court of Muscogee county to the circuit court of the United States, for the district of Georgia, a suit wherein the said Howard and

Echols are plaintiffs, and the said Ingersoll defendant. Now if the said Ingersoll shall, on the first day of the next session of the said circuit court enter in said circuit court copies of said process in said suit, then this obligation to be void.

STEPHEN M. INGERSOLL, [L. S.]
DAN'L McDOUGALD. [L. S.]

HOWARD & ECHOLS
vs.
STEPHEN M. INGERSOLL.

In Muscogee superior court. May term, 1847.

The said defendant, now at this term of said court, the same being the appearance term, having entered an appearance in said cause, and at the same time having filed his petition for the removal of said cause to the next circuit court of the United States, for the district of Georgia, and it appearing to the court that the facts stated and recited in said petition are true; and it appearing also to the court that the said Stephen M. Ingersoll has given bond with good and sufficient surety for his entering in said circuit court of the United States on the first day of its next session, with copies of said process against him: It is therefore adjudged, that said cause proceed no further in this court, and that the same be removed to said circuit for further trial, according to the statute in such case made and provided.

GEORGIA, *Muscogee county.*

I, Thaddeus Sturgis, clerk of the superior court in and for said county, do hereby certify, that the above and foregoing, is a true copy and exemplification of all the proceedings had in the case of John H. Howard and Josephus Echols against Stephen M. Ingersoll, as appears of record, and of papers of file now in my office.

Given under my hand and seal this the 11th day of June, 1847.

THADDEUS STURGIS, [L. S.]
Clk. S. C. M. C.

GEORGIA, *Muscogee county.*

I, Robert B. Alexander, judge of the superior court in and for the Chattahoochie circuit, in said State, do hereby certify, that Thaddeus Sturgis, whose name appears to the above certificate as clerk of the superior court of Muscogee county, is clerk of said court, and that full faith and credit ought to be had and given to his certificate as such, and that said certificate is in due form of law.

Given under my hand and official signature, this 11th day of June, 1847.

ROBT. B. ALEXANDER,
Judge S. C. C. C.

Transcript from State court, &c., filed 4th Nov., 1847.

G. GLEN, *Clk.*

In the sixth circuit court of the U. S., for the district of Georgia, November term, 1847.

Stephen M. Ingersoll, vs. John H. Howard and Josephus Echols.	Trespass.

And the said defendant, Stephen M. Ingersoll, by Robert M. Charlton, his attorney, comes and defends the force and injury, when, &c., and says, that he is not guilty of the said supposed trespasses above laid to his charge, or any or either of them, or any part thereof, in manner and form as the said plaintiffs have above thereof complained against him; and of this he, the said defendant, puts himself upon the country, &c.

And for a further plea in this behalf, as to the said supposed trespasses in the said declaration mentioned, the said defendant, by leave of the court here for this purpose first had and obtained, according to the form of the statute in that case made and provided, saith, that the said plaintiffs ought not to have or maintain their aforesaid action thereof against him, because he saith that he, the said defendant, was not guilty of the said several supposed trespasses in the said declaration mentioned, or of any or either of them, or of any part thereof, in manner and form as the said plaintiffs have above thereof complained against him, at any time within four years next before the commencement of this suit; and this the said defendant is ready to verify; wherefore he prays judgment if the said plaintiffs ought to have or maintain their aforesaid action against him, &c.

And for a further plea in this behalf, as to the fishing in the said closes in the said declaration of the said plaintiffs mentioned, and the said fish there found and being, catching, seizing, taking, and carrying away, and converting and disposing thereof to his own use, the said defendant, by leave of the court here for this purpose first had obtained, according to the form of the statute in such case made and provided, says, that the said plaintiffs ought not to have or maintain their aforesaid action against him, because he says that the places where the said defendant fished, as set forth in the said declaration of the said plaintiffs, and at the several times set forth in the said declaration, were certain closes or pieces of land covered with water; and which said closes or pieces or parcels of land now are, and at the said several times when the said defendant entered them, as set forth in the said declaration of the said plaintiffs, were the closes, soil, and freehold of this defendant; wherefore the said defendant, at the said several times when he entered into the said closes, pieces, or parcels of land, and fished there for fish, and the said fish, in the said declaration mentioned, there found, and being caught, seized, took, and carried away, and converted and disposed thereof to his own use, as it was lawful for him so to do for the cause aforesaid; which are the said several supposed trespasses in

the introductory part of this plea mentioned, and whereof the said plaintiffs have above complained against him, the said defendant. And this the said defendant is ready to verify; wherefore he prays judgment if the said plaintiffs ought to have or maintain their aforesaid action thereof against him, &c.

And for a further plea in this behalf, as to the fishing in the said closes in the said declaration of the said plaintiffs mentioned, and the said fish there found and being, catching, seizing, taking, and carrying away, and converting and disposing thereof to his own use, the said defendant, by leave of the court here for this purpose first had and obtained, according to the form of the statute in such cases made and provided, says, that the said plaintiffs ought not to have or maintain their aforesaid action against him, because he says that the said supposed closes in which the said defendant entered, as set forth in the said declaration of the said plaintiffs, at the said several times when he so entered, were and still are, and from time immemorial have been, part and parcel of the said river called the Chattahoochie river; and that the said part thereof in which the said defendant entered, as set forth in the said declaration mentioned of the said plaintiffs, now is, and at the said several times when the said defendant so entered, was, and is, from time to time, whereof the memory of man is not to the contrary, hath been a public and common navigable river, in which every citizen of the United States of America, and especially the citizens of the State of Alabama, (of which last mentioned State the said defendant is a citizen,) at the said several times when the said defendant so entered, as set forth in the said declaration of the said plaintiffs, of right had, and of right ought to have, and still have, and of right ought to have, the liberty and privilege of navigating and fishing; wherefore the said defendant, being a citizen of the United States and of the State of Alabama, at the said several times when, as set forth in the said declaration of the said plaintiffs he entered into the said closes, so being part of the said navigable river as aforesaid, to fish in the said river there, and at those several times did fish there, it was lawful for him so to do for the cause aforesaid; which are the said several supposed trespasses in the introductory part of this plea mentioned, and whereof the said plaintiffs have above complained against him, the said defendant. And this the said defendant is ready; wherefore he prays judgment if the said plaintiffs ought to have or maintain their aforesaid action thereof against him, &c.

ROBERT M. CHARLTON,
Defts atty.

Pleas of defendant filed 4th Nov'r, 1847.

In the sixth circuit court of the U. S., for the district of Georgia.

JOHN H. HOWARD and Josephus Echols
vs.
STEPHEN M. INGERSOLL.

And the said plaintiffs, as to the said plea of said defendant by him first above and before pleaded, and whereof he hath put himself upon the country, doth the like. And the said plaintiffs, as to the said plea of said defendant by him secondly above and before pleaded, say, that said plaintiffs, by reason of anything in said plea alleged by said defendant, ought not to be barred from having and maintaining their said action thereof against said defendant, because they say that said defendant was guilty of the said several trespasses in the said declaration mentioned, and of each and every of them, and of every part thereof, in manner and form as the said plaintiffs have above thereof complained against him, within four years next before the commencement of this suit; and this the said plaintiffs pray may be inquired of by the country.

And the said plaintiffs, as to the plea of said defendant by him thirdly above pleaded, as to the said several trespasses in the introductory part of the said plea mentioned and therein attempted to be justified, say, that the said plaintiffs, by reason of anything by the said defendant in that plea alleged, ought not to be barred from having and maintaining their aforesaid action against said defendant, because they say that the said several closes in said declaration mentioned, in which said several trespasses are alleged to have been committed, now are, and at the time said several trespasses are alleged to have been committed, were the closes, soil and freehold of the said plaintiffs, and not the closes, soil, and freehold of the said defendant, in manner and form as the said defendant hath above in his said third plea alleged; and this the plaintiffs pray may be inquired of by the country.

And the said plaintiffs, as to the plea of the said defendant by him fourthly above pleaded, as to the said several trespasses in the introductory part of that plea mentioned, and therein attempted to be justified, say, that said plaintiffs, by reason of anything by the said defendant in that plea alleged, ought not to be barred from having and maintaining their aforesaid action thereof against the defendant, because they say that the said several closes in which the defendant entered, and at the times he entered the same, and committed the said several trespasses as set forth in plaintiffs' declaration, were and are not a part of the river Chattahoochie in which the citizens of the United States generally, or the citizens of the State of Alabama, or the said defendant, have any right, liberty, or privilege to enter and fish, nor had any such right, liberty, or privilege, at the times the defendant entered and broke the said closes and committed the several trespasses, as set forth in the plaintiffs' declaration; nor was it lawful for the defendant for any cause alleged in his said plea fourthly above pleaded, to enter the said several closes of the plaintiffs, as is alleged in their said declaration, at the time or times he entered the same, and to commit said several trespasses, or any one of them, or any part thereof, as is set forth in plaintiffs' declaration; and this the said plaintiffs pray may be inquired of by the country.

FRANCIS H. CONE, *Plff's att'y.*

And as to all these replications submitted to the country the defendant doth the like.

ROBERT M. CHARLTON,
Defendant's attorney.

Replications of plaintiffs filed at rules, January 3d, 1848.
G. GLEN, *Clerk.*

Southern district of Georgia, April term, 1850.

And now, on this day, that is to say, on the thirteenth day of April, in the year of our Lord eighteen hundred and fifty, being a day of the term of the said court, held in the city of Savannah on the eighth day of April, (being the second Monday,) in the year aforesaid, before the honorable John C. Nicoll, judge of the district courts for the districts of Georgia, then and there presiding, came the said parties, as follows, to wit:

JOHN H. HOWARD and Josephus Echols
vs.
STEPHEN M. INGERSOLL.

Trespass—transcript from State court.

Verdict: We find the defendant guilty of the trespasses alleged in the declaration upon lot number sixteen, and we assess damages to the plaintiffs for such trespasses at six hundred dollars, and costs of suit. Savannah, April 13, 1850.

WM. R. SYMONS, *Foreman.*

Southern district of Georgia, sixth circuit court of the United States, April term, 1850.

JOHN H. HOWARD and Josephus Echols
vs.
STEPHEN M. INGERSOLL.

Trespass.

Afterwards, to wit, on the thirteenth day of April, one thousand eight hundred and fifty, before the judge of the said court, came the within named plaintiffs, by their attorneys within named, and the said defendant, by his attorney within named; and the jurors of the jury whereof mention is within made, being called, elected, tried, and sworn, likewise come, who to speak the truth of the within contained, upon their oaths say, "we find the defendant guilty of the trespasses alleged in the declaration upon lot number sixteen, and we assess damages to the plaintiffs for such trespasses at six hundred dollars, and costs of suit."

Therefore it is considered that the said plaintiffs do recover against the said defendant their damages aforesaid by the jury aforesaid in form aforesaid assessed, and also twenty-six dollars for their costs and

charges aforesaid, to the said plaintiffs by the said court now here with their assent of increase adjudged; and the said defendant in mercy, &c.

LAW & BARTOW,
Plaintiffs' attorneys.

Judgment signed and filed, this 13th day of April, 1850.

GEO. GLEN, *Clerk.*

UNITED STATES OF AMERICA,
Southern district of Georgia.

I, George Glen, clerk of the sixth circuit court of the United States, for the southern district of Georgia, hereby certify, that the preceding and annexed writing is a true and perfect transcript of the record and proceedings remaining in the said court in the cause therein mentioned, taken from, and by me carefully compared with, the originals filed and of record in my office.

In testimony whereof I have hereto set my hand and affixed the seal of the said court, this fifth day of July, in the year of our Lord eighteen hundred and fifty.

[SEAL.]

GEO. GLEN, *Clerk.*

UNITED STATES OF AMERICA,
District of Georgia.

I, John C. Nicoll, judge of the district court of the United States, in and for the district aforesaid, hereby certify, that the attestation of George Glen, clerk of the said circuit court, to the foregoing document, is in due form.

Witness my hand this fifth day of July, anno domini 1850.

JNO. C. NICOLL,
District judge.